

THE HONORABLE BENJAMIN H. SETTLE

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

RANDOLFF SCOTT RUFFELL  
WESTOVER and ANDREA WESTOVER,  
husband and wife, and the marital community  
composed thereof,  
  
Plaintiffs,  
  
v.  
  
PROVIDENT LIFE AND ACCIDENT  
INSURANCE COMPANY,  
  
Defendant.

Case No. 3:20-cv-05931-BHS

**DECLARATION OF STEPHANIA  
DENTON IN SUPPORT OF  
DEFENDANT'S OPPOSITION TO  
PLAINTIFFS' SECOND MOTION  
FOR SANCTIONS AND  
ALTERNATIVE CROSS-MOTION  
FOR EXCLUSION OF EVIDENCE**

I, Stephanie Denton, declare and state as follows:

1. I am one of the attorneys for Defendant Provident Life and Accident Insurance Company ("Provident"). I am over the age of 18 and make this declaration based on information and belief and am competent to testify to the matters contained herein.

2. Attached as **Exhibit A** is a copy of plaintiff's Initial Disclosures served December 21, 2020.

3. Following receipt of the Court's order on plaintiff's first motion for sanctions, I offered to agree to an extended briefing schedule for the parties' cross-motions addressing ERISA applicability. Plaintiff's counsel rejected this offer.

DECLARATION OF STEPHANIA DENTON IN SUPPORT  
OF DEFENDANT'S OPPOSITION TO PLAINTIFFS'  
SECOND MOTION FOR SANCTIONS AND  
ALTERNATIVE CROSS-MOTION FOR EXCLUSION OF  
EVIDENCE - 1

LANE POWELL PC  
1420 FIFTH AVENUE, SUITE 4200  
P.O. BOX 91302  
SEATTLE, WA 98111-9402  
206.223.7000 FAX: 206.223.7107

1 I declare under the penalty of perjury under the laws of the State of Washington and the  
2 United States that the foregoing is true and correct.

3 DATED this 12th day of April, 2021.

4  
5 s/ *Stephania Denton*

6 Stephania Denton, WSBA No. 21920  
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## **Exhibit A**

HON. JUDGE BENJAMIN H. SETTLE

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT TACOMA**

RANDOLFF SCOTT RUFFELL  
WESTOVER and ANDREA WESTOVER,  
husband and wife, and the marital  
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Plaintiffs,

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PROVIDENT LIFE AND ACCIDENT  
INSURANCE COMPANY,

Defendant.

No. 3:20-cv-05931-BHS

PLAINTIFF'S INITIAL  
DISCLOSURES

Plaintiffs Randolff Scott Ruffell Westover and Andrea Westover submit the following Initial Disclosures pursuant to Fed.R.Civ.P. 26(a)(1). These Initial Disclosures are based upon information presently reasonably available to the Westovers. By these disclosures, the Westovers do not waive the right to object to the production, or the introduction into evidence, of any document or tangible thing, including on the basis of privilege, work-product, relevance, burden, or any other applicable objection. The Westovers reserve the right to rely upon any documents and testimony obtained during discovery as well as documents subsequently discovered. Pursuant to Fed.R.Civ.P. 26(e), the Westovers reserve the right to supplement these Initial Disclosures, including with additional information (such as Provident's claim file for Mr.

Westover's insurance claim) that is obtained in the course of discovery or investigation of this matter. The Westovers reserve the right to identify or call as witnesses other individuals in addition to those identified herein, and to identify additional documents or categories of documents, that are subsequently discovered to be relevant to this action. The submission of these Initial Disclosures does not constitute an admission or concession that any discovery is necessary or appropriate.

### **I. INDIVIDUALS LIKELY TO HAVE INFORMATION**

Pursuant to Fed. R. Civ. P. 26(a)(1)(A)(i), the following individuals are likely to have discoverable information that plaintiffs may use to support their claims. Expert witnesses will be identified later, in accordance with the case schedule. Discovery is ongoing and Plaintiffs reserve the right to supplement with additional information.

1. Plaintiff Randolff Scott Ruffell Westover. May be contacted through undersigned counsel. Mr. Westover is knowledgeable regarding the circumstances of his disability at issue in this lawsuit as well as his claims for disability benefits.

2. Plaintiff Andrea Westover. May be contacted through undersigned counsel. Mrs. Westover is Mr. Westover's spouse and is knowledgeable regarding the circumstances of Westover's disability at issue in this lawsuit.

3. Dr. Arif Chowdhury, M.D., 34503 9th Ave S Suite 230, Federal Way, WA 98003, (253) 835-8880. Dr. Chowdhury provided medical treatment in connection with Mr. Westover's disability and may be knowledgeable regarding Mr. Westover's medical condition.

4. Brent McCaleb, M.D., 11019 Canyon Rd E Ste A Puyallup, WA 98373-3001, (253) 537-0293. Dr. McCaleb provided medical treatment in connection with Mr. Westover's disability and may be knowledgeable regarding Mr. Westover's medical condition.

1           5.       Tracy Brady, M.D., 11019 Canyon Rd E Ste A Puyallup, WA 98373-3001, (253)  
2       537-0293. Dr. Brady provided medical treatment in connection with Mr. Westover's disability  
3       and may be knowledgeable regarding Mr. Westover's medical condition.

4           6.       Charles Bernick, M.D., 325 9th Ave., Seattle, WA 98104, 206-520-5000. Dr.  
5       Bernick provided medical treatment in connection with Mr. Westover's disability and may be  
6       knowledgeable regarding Mr. Westover's medical condition.

7           7.       D.R. Horton, Inc., including agents and employees thereof, 1341 Horton Cir.,  
8       Arlington, Texas. D.R. Horton is Mr. Westover's employer and is knowledgeable regarding Mr.  
9       Westover's job duties and the circumstances of Westover's disability.

10          8.       Shawn Reynolds, c/o D.R. Horton, Inc., 1341 Horton Cir., Arlington, Texas. Mr.  
11       Reynolds is Mr. Westover's former supervisor and may be knowledgeable regarding Mr.  
12       Westover's job duties and the circumstances of Mr. Westover's disability.

13          9.       Defendant Provident Life and Accident Insurance Company, including  
14       Provident agents, contractors, parents (including Unum Group) and employees involved in the  
15       handling of Mr. Westover's insurance claim, c/o Stephania Denton, Lane Powell LLP, 1420  
16       Fifth Avenue, Suite 4200, Seattle, Washington, 206-223-7016. The foregoing have knowledge  
17       regarding Mr. Westover's disability and claim for insurance benefits at issue in this lawsuit, as  
18       well as the claims-handling procedures applicable to Mr. Westover's insurance claim.

19          10.       Additional persons and entities identified in Provident's claim file for Mr.  
20       Westover's insurance claim who may be knowledgeable regarding Mr. Westover's insurance  
21       claim and medical condition.  
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**II. DOCUMENTS, ELECTRONICALLY STORED INFORMATION, AND TANGIBLE THINGS THAT MAY BE USED TO SUPPORT CLAIMS OR DEFENSES**

Pursuant to Fed. R. Civ. P. 26(a)(1)(A)(ii), the Westovers may rely on the following documents to support their claims:

1. Provident's claim file regarding the Westovers' insurance claim;
2. Provident's insurance claims-handling standards, manuals, protocols, policies, practices, and procedures;
3. Documents generated in the course of Provident's investigation of the Westovers' insurance claim;
4. Correspondence with and among Provident's adjusters and agents regarding the Westovers' insurance claim;
5. Correspondence with and among third party vendors, consultants, investigators or medical professionals regarding the Westovers' insurance claim and Mr. Westover's disability;
6. Documents pertaining to allegations of bad faith claims-handling asserted by other Provident insureds;
7. Personnel files and additional documents regarding compensation or performance metrics for Provident's claims-handling personnel;
8. Documents regarding Provident's profitability, loss ratios, and cost-saving measures;
9. Provident's advertising concerning insurance policies similar to the Westovers' insurance policy at issue in this lawsuit;

1           10.     Medical records and similar records of Mr. Westover's treatment for his  
2 disability;

3           11.     Documents regarding the sale, marketing, and premium payments regarding the  
4 at-issue insurance policy; and

5           12.     Mr. Westover's employment file and related documents.

6           The Westovers reserve the right to supplement this disclosure upon the discovery of new  
7 documents or information; in particular, documents to be obtained in discovery in this matter.  
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9                   **III.     COMPUTATION OF EACH CATEGORY OF DOCUMENTS**

10           Pursuant to Fed. R. Civ. P. 26(a)(1)(A)(iii), the following is a computation of damages  
11 claimed by the Westovers. The Westovers will likely rely on expert testimony to establish  
12 damages. That expert opinion will be disclosed pursuant to the Federal Rules of Civil Procedure  
13 and the case schedule.

14           The categories of damages claimed are:

- 15           •     Unpaid insurance benefits in the amount of at least \$1,385 per month  
16                 commencing November 5, 2019, and continuing for so long as Mr. Westover  
17                 remains disabled and entitled to insurance benefits under the policy;
- 18           •     Consequential economic damages incurred as a result of Provident's  
19                 unreasonable denials of insurance policy benefits, including costs of  
20                 investigation;
- 21           •     General damages;
- 22           •     Enhanced damages under the Consumer Protection Act (CPA) and the Insurance  
23                 Fair Conduct Act (IFCA); and  
24                 Fair Conduct Act (IFCA); and  
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- Attorney fees and costs.

The Westovers seek declaratory and injunctive relief compelling Provident to comply with the applicable insurance policy provisions and applicable law. The Westovers claim all other relief available under applicable law, such other and further declaratory and injunctive relief as may be warranted, as well as attorney's fees, litigation costs and expenses.

The Westovers reserve the right to supplement this damages calculation after further discovery

Dated December 21, 2020.

**RUIZ & SMART  
PLAINTIFF LITIGATION PLLC**

By: /s/ McKean J. Evans  
McKean J. Evans, WSBA #52750

Isaac Ruiz, WSBA #35237  
95 S. Jackson St., Ste. 100  
Seattle, WA 98104  
Tel. 206-203-9100  
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iruiz@plaintiffllit.com  
mevans@plaintiffllit.com

***Counsel for Plaintiffs Randolph Scott Ruffell  
Westover and Andrea Westover***

**CERTIFICATE OF SERVICE**

I declare under penalty of perjury under the laws of the State of Washington that I am a resident of the State of Washington, over the age of eighteen years, not a party to the above-entitled action, and competent to be a witness herein. On this date I caused a copy of the foregoing document to be served on the individuals identified below by the indicated method:

- ☒ Email
- ☐ Through court e-filing system
- ☒ First-class mail
- ☐ Messenger
- ☐ Other: \_\_\_\_\_

D. Michael Reilly, WSBA No. 14674  
Stephania Denton, WSBA #21920  
LANE POWELL PC  
1420 Fifth Avenue  
Suite 4200  
Seattle, WA 98101-2338  
206-223-7000  
reillym@lanepowell.com  
dentons@lanepowell.com

Signed on December 21, 2020, in Seattle, Washington.



Shannon K. McKeon, Legal Assistant